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July 26, 2012

VIA HAND DELIVERY

Ms. Cynthia T. Brown
Chief, Section of Administration
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

FILED

JUL 26 2012

**SURFACE
TRANSPORTATION BOARD**

**Re: MC-F-21048, El Expreso Group, LLC – Asset Acquisition – CUSA EE, LLC
d/b/a El Expreso**

Dear Ms. Brown:

Please find enclosed an original and ten copies of the application of El Expreso Group, LLC, its affiliate Vazquez Holdings, LLC (Vazquez Holdings) and their owner Juan Vazquez, for interim approval to acquire management control over the assets currently operated by CUSA EE, LLC. Expedited action is requested with respect to this application.


A check in payment of the \$500 filing fee is also enclosed.

FEE RECEIVED

JUL 26 2012

**SURFACE
TRANSPORTATION BOARD**

Respectfully submitted,



David H. Coburn
Timothy M. Walsh
Attorneys for El Expreso Group, LLC,
Vazquez Holdings, LLC and Juan Vazquez

cc: U.S. Department of Justice, Antitrust Division
Federal Trade Commission
Other parties listed on service list

EXPEDITED ACTION REQUESTED

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

STB DOCKET NO. MCF-21048

EL EXPRESO GROUP, LLC
—ASSET ACQUISITION—CUSA EE, LLC D/B/A EL EXPRESO

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VERIFIED REQUEST FOR INTERIM APPROVAL

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Attorneys for El Expreso Group, LLC,
Vazquez Holdings, LLC and Juan Vazquez

July 26, 2012

EXPEDITED ACTION REQUESTED
BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET NO. MCF-21048

EL EXPRESO GROUP, LLC
—ASSET ACQUISITION—CUSA EE, LLC D/B/A EL EXPRESO

VERIFIED REQUEST FOR INTERIM APPROVAL

El Expreso Group, LLC (El Expreso) filed a Verified Application in this docket on June 12, 2012, seeking approval under 49 U.S.C. § 14303(a) to acquire substantially all of the assets of CUSA EE, LLC D/B/A/ El Expreso (CUSA EE), an interstate motor common and contract carrier of passengers that is currently controlled by Coach America Holdings, Inc. (Coach America) and that, along with other Coach America carriers, is in bankruptcy. On July 12, 2012, the Board issued a Notice setting August 27, 2012 as the date for comments to the Application and, because a comment in opposition had already been filed, September 11, 2012 as the date for Applicant's reply to any comments.

Pursuant to 49 U.S.C. § 14303(i) and 49 C.F.R. §1182.7, which allow filing a request for interim approval at the same time as, or subsequent to, the filing of an application for change of control, El Expreso, its affiliate Vazquez Holdings, LLC (Vazquez Holdings) and their owner Juan Vazquez hereby seek interim approval for Vazquez Holdings and Mr. Vazquez to acquire management control over the assets currently operated by CUSA EE that are the subject of the pending Application. As described more fully below, in order to effect interim control the

parties intend to have El Expreso acquire the subject assets of CUSA EE, including CUSA EE's interstate operating authorities, through the use of a voting trust in accordance with 49 C.F.R. § 1013.3 and to have Vazquez Holdings manage those assets pursuant to the requested interim approval. El Expreso and Vazquez Holdings are both solely controlled by Mr. Vazquez. *See* Application at 2.

As described in the Application and the Notice, Mr. Vazquez currently controls another authorized carrier, Tornado Bus Company, Inc. To avoid any unlawful acquisition of control, the membership interests in El Expreso (which have voting power over El Expreso) will be placed, at or prior to the time of the asset acquisition, into a trust with an independent trustee pursuant to a voting trust agreement. Thus, while Vazquez Holdings and Mr. Vazquez would exercise management control over those assets, the membership interests in El Expreso will be held in a voting trust in accordance with Board procedures.

Following transfer of the membership interests in El Expreso into the voting trust, the relationship between the independent trustee and El Expreso would be governed by the terms of the voting trust agreement. The trust will be irrevocable and the trustee will retain ownership of the membership interests in El Expreso pending final Board approval. The draft voting trust agreement will be submitted for an informal Staff opinion as to its compliance with STB regulations and its sufficiency in protecting El Expreso, Vazquez Holdings and Mr. Vazquez from any unlawful acquisition of control. In addition, a management agreement will be entered into between Vazquez Holdings and El Expreso. In sum, granting this request for interim approval will allow El Expreso to own and acquire control of the assets that are the subject of the transaction described in the Notice—subject to the voting trust procedure described above—but permit Vazquez Holdings and Mr. Vazquez to exercise management control over those assets.

Vazquez Holdings and Mr. Vazquez seek interim approval to manage the operation of the assets until such time as final approval for control of the assets is received, at which time the voting trust arrangement would be terminated. The voting trust approach maximizes the likelihood that the assets will retain their full value pending final Board action. El Expreso, Vazquez Holdings and Mr. Vazquez therefore ask that the Board grant this request on an expedited basis in order to preserve service to passengers who rely on CUSA EE's operations, and to mitigate possible devaluation of the assets to be acquired.

The Board can grant an applicant interim authority to operate the properties it seeks to acquire "when it appears that failure to do so may result in destruction of or injury to those properties or substantially interfere with their future usefulness in providing adequate and continuous service to the public." 49 U.S.C. § 14303(i); *see also* 49 C.F.R. §1182.7. The schedule established by the Notice delays the date on which the parties could consummate the transaction, exacerbating the risk that the assets will be devalued and that uninterrupted, quality motor passenger carrier service to the public may suffer.

Coach America and its subsidiaries are insolvent, and many of the remaining assets are being sold. The grant of interim authority and the use of the voting trust structure will allow the parties to consummate the transaction sooner than would otherwise be possible, which will better ensure continued scheduled bus service to the traveling public and thereby protect the public's interest in uninterrupted, quality passenger motor carrier service in the markets currently served by CUSA EE.

The Board has granted interim authority in a number of similar situations. Indeed, it recently did so with respect to the assets of ten other Coach America subsidiaries. *See Stagecoach Group PLC and Coach USA, Inc., et al.—Acquisition of Control of Assets—*

American Coach Lines of Atlanta, Inc. et al. (Docket No. MCF 21405 TA, served June 18, 2012) (*Stagecoach*).

The standards for interim approval are clearly met here. CUSA EE is an insolvent company in bankruptcy. Under the voting trust arrangement described above, operational management by Vazquez Holdings and Mr. Vazquez will be needed to ensure that El Expreso can continue to provide service to the public previously provided by CUSA EE. Vazquez Holdings and Mr. Vazquez are in a position to provide such operational management. Interim approval thus will ensure that the transportation services currently provided by CUSA EE will continue to be provided and that the assets El Expreso will purchase will retain their value and be utilized for the benefit of the traveling public while the membership interests in El Expreso are held in the voting trust pending conclusion of the Board's proceedings.

El Expreso, Vazquez Holdings and Mr. Vazquez also ask that the interim approval order authorize the transfer of CUSA EE's interstate and intrastate motor passenger carrier operating authorities to El Expreso. Those authorities are set forth in Appendix D to the Application.¹

As the Application explains, El Expreso itself does not currently have any motor carrier operations or authorities, so it must obtain CUSA EE's authorities to legally operate the assets, preserve their value and continue service to the public. With respect to this request, the parties note that the Board's predecessor held that partial consummation, *e.g.*, transfer of a seller asset to buyer, is appropriate in some circumstances with respect to requests for temporary authority (which at the time was analogous to a request for interim approval). *See* G. M. Bober, A

Practical Approach to Motor Carrier Finance Applications, 1978 TRANSP. L. INST., at 219,

¹ The parties understand that generally USDOT numbers do not transfer from one entity to another. Accordingly, El Expreso intends to apply for its own USDOT number should this application be granted and the federal motor carrier operating authority be transferred to it. The only intrastate authority held by CUSA EE is from Texas. The Texas Department of Motor Vehicles, which issues such authority, and FMCSA are being served with a copy of this request.

citing Chenango Valley Bus Lines, Inc., No. MC-F-12502 (July 11, 1975) (not printed);

Consolidated Freightways of Del., No. MC-F-12748 (April 16, 1976) (not printed).

Both the statute and the implementing regulations contemplate the transfer of operating authorities in conjunction with Board approval of control. *See* 49 U.S.C. § 14303(f); *see also* 49 C.F.R. §§ 1182.2(a)(11), 1182.3(a)(2), 1182.8(f). In the circumstances presented here, transfer of CUSA EE's operating authorities as part of the interim approval is essential to allow operation of the acquired assets by El Expreso in its capacity as an authorized for-hire motor carrier of passengers—preserving both service to the public and the assets' value—while at the same time preserving the Board's ultimate authority to approve permanent control through use of a voting trust. Without the requested transfer of CUSA EE's operating authorities, El Expreso could not operate the assets and thus would have no operations for Vazquez Holdings and Mr. Vazquez to manage, making interim approval an exercise in futility. Because the Trustee will hold the membership interests in El Expreso, the entity into which the operating authorities and other CUSA EE assets are to be transferred, in an irrevocable voting trust pending final Board action, the Board's approval jurisdiction is preserved.

Finally, El Expreso requests that the Board grant the requested interim authority expeditiously. There is no reason to delay the ability of Vazquez Holdings' and Mr. Vazquez to start providing support for these passenger bus operations.² Moreover, the Board has granted requests for interim operating authority within days where the statutory requirements are met.³

² The "letter in opposition" to the Application filed by an individual who has a dispute with a different Coach America subsidiary that was stayed by the bankruptcy—and who has objected to any asset sales—cannot justify delay. *See Stagecoach*, slip op. at 3 & n.6. The same individual also filed an objection to the Stagecoach sale in the Bankruptcy Court, which was overruled by that Court in an order entered July 12, 2012.

³ *See, e.g., Stagecoach Group, plc and Coach USA, Inc., et al—Acquisition and Consolidation of Assets—Rockford Coach Lines, LLC*, STB Docket MC-F-21006 (April 29,

Those requirements plainly are met here. El Expreso, Vazquez Holdings and Mr. Vazquez accordingly ask the Board to act expeditiously in granting authority for Vazquez Holdings and Mr. Vazquez to exercise management control over the CUSA EE assets to be acquired by El Expreso in conjunction with the voting trust, and in ordering the transfer of CUSA EE's operating authorities, so that the value of the transaction can be preserved and service to the public continued. The parties understand that should the Application not be approved, the Trustee would be required to dispose of the membership interests in El Expreso (or its assets) to a party that can lawfully acquire them.

Respectfully submitted,



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Attorneys for El Expreso Group, LLC,
Vazquez Holdings, LLC and Juan Vazquez

July 26, 2012

2004) (13 days); *Holland America Line-Westours, Inc.—Control—Westours Motor Coaches, Inc., Evergreen Trails, Inc., Westmark Hotels of Canada Ltd., and Horizon Coach Lines Ltd.*, STB Docket No. MC-F-20988 TA (served Feb. 1, 2002) (seven days); *Northwest Motor Coach L.L.C.—Control—Evergreen Stage Line, Inc. and Evergreen Bus Co., Inc.*, STB Docket No. MC-F-20956 (served Oct. 18, 1999) (two weeks); *Colorado Mountain Express, Inc. and Airport Shuttle Colorado, Inc. d/b/a Aspen Limousine Service, Inc.—Consolidation and Merger (Interim Approval)—Colorado Mountain Express*, STB Docket No. MC-F-20902 TA (served Nov. 12, 1996) (12 days).

CERTIFICATE OF SERVICE

I hereby certify that I have this 26th day of July, 2012 served a copy of the foregoing

Verified Request for Interim Approval by hand or by Federal Express on:

U.S. Department of Transportation
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, S.E.
Washington, DC 20590

Federal Trade Commission
Bureau of Competition
Premerger Notification Office
600 Pennsylvania Avenue, N.W.
Washington, DC 20580

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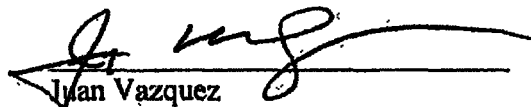
Texas Department of Motor Vehicles
Motor Carrier Services
Credentialing Department
4000 Jackson Ave.
Austin, TX 78731



David H. Coburn

VERIFICATION

I, Juan Vazquez, President of Vazquez Holdings, LLC and El Expreso Group, LLC, verify under penalty of perjury, under the laws of the United States of America, that all information supplied in connection with this Application relative to me; Vazquez Holdings, LLC; El Expreso Group, LLC; and Tornado Bus Company, Inc. is true and correct. Further, I certify that I am qualified and authorized to file this application or pleading. I know that willful misstatements or omissions of material facts constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.


Juan Vazquez
President, Vazquez Holdings, LLC
and El Expreso Group, LLC

Dated July 26, 2012